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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MPA - 206832

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 8, 2022, under Wis. Stat., §49.45(5), to review a decision by the Division of Medicaid Services (DMS) to deny Medical Assistance (MA) authorization for orthodontia, a hearing was held on January 4, 2023, by telephone. A hearing set for December 20, 2022 was rescheduled with the petitioner's agreement.

The issue for determination is whether the DMS correctly denied the authorization request.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: No response  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner is a resident of Ashland County who is eligible for MA.
2. In August, 2022, Peter Christensen Dental Clinic requested prior authorization for orthodontia on petitioner's behalf, PA no. [REDACTED]. The DMS denied the request by a letter dated August 18, 2022. No reason has been given for the denial.

## DISCUSSION

Orthodontia is not an MA-covered service. Wis. Admin. Code, §DHS 107.07(4)(j). However, medical services provided to recipients under age 21 pursuant to Early and Periodic Screening, Diagnosis and Treatment (EPSDT) must be covered if the EPSDT health assessment and evaluation indicates that they are needed. 42 C.F.R. §441.56(c); Wis. Admin. Code, §DHS 107.22(4). Prior authorization is granted when the generic authorization criteria at §DHS 107.02(3) are met. The DMS has defined the criteria in its MA Providers Handbook, specifically related to dental issues, Topic 2909. The policy requires a Salzmann Index score of 30, or the documentation of unusual circumstances that make the recipient's malocclusion handicapping.

Petitioner filed this appeal to contest the denial of authorization. The hearing was set for December 20, 2022, and several days prior to the hearing I emailed the DMS to report that no response had been received. As of December 20, the DMS still had not responded, so the petitioner agreed to reschedule the hearing. The hearing was rescheduled to January 4, 2023. As of that date, the DMS still had not provided any response as to why the request was denied.

At this point I find that the DMS has defaulted, and I will order the requested services to be approved. I note to petitioner that the dental clinic will not receive a copy of this decision. To have the service approved, petitioner must provide a copy of this decision to the Dr. Christensen's office. The provider must then submit a *new* prior authorization request, along with a copy of this decision, to receive the approved coverage.

## CONCLUSIONS OF LAW

The DMS has no shown a basis for denying coverage of the requested orthodontia services.

**THEREFORE, it is**

**ORDERED**

That Peter Christensen Dental Clinic is hereby authorized to provide the orthodontia services requested in PA no. [REDACTED]. The provider should submit a new prior authorization request along with a copy of this decision for approval.

## **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

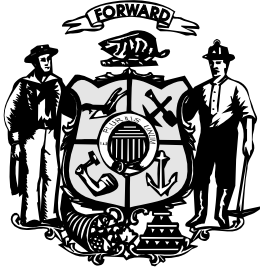
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 4th day of January, 2023

A handwritten signature in blue ink, appearing to read "Brian C. Schneider", is written over a horizontal line.

Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 4, 2023.

Division of Medicaid Services